

REMARKS/ARGUMENTS

Claims 1, 2, 4 to 8, 17 to 22, 24 to 27, 29, 40, 42, 44, 46 and 48 to 55 remain in this application. Claims 3, 9 to 16, 23, 28, 30 to 39, 41, 43, 45 and 47 have been canceled, without prejudice to submitting in a continuing application. Claims 1, 8, 17, 22, 40 and 42 have been amended to improve definiteness or more specifically define the invention. Support for the amendments to claims is found in Figures 1 and 2, for example.

Claims 1, 4 to 6, 8, 17 to 20, 22, 24, 25, 27, 40 and 42 have been rejected as being anticipated by Lemoine (EP 888859, newly cited). As clearly shown in Figures 1 and 2 of the present application, which are perspective views of jaspe agglomerated particles, the jaspe agglomerated particles have surfaces that are all irregular. There are no planar surfaces. This feature is required in amended claims 1, 8, 17 and 22.

As shown in Figure 1 of Lemoine, the colored particles 1, 3, 5 and 7 of Lemoine that form the band or sheet 13 are not agglomerated nor jaspe, as required by the present claims, but are formed directly into the sheet 13. The jaspe particles 19 of Lemoine that are formed into the band or sheet 25 are not agglomerated. The jaspe sheet 13 is shredded into the jaspe particles, but the particles are not agglomerated, i.e. they are not clustered together but are a fused, coherent mass. Further, the particles 19 all have two parallel planar surfaces, the upper and lower surfaces of the sheet. See column 4, lines 28 to 30 and 33 to 36.

Since amended claims 1, 8, 17 and 22 require the jaspe agglomerated particles to have only irregular, i.e. non-planar, surfaces, the presently claimed sheet and method

distinguish Lemoine. These irregular surfaced particles yield a visual appearance different from the appearance of the Lemoine product. Since the claimed product and method are not anticipated or made obvious in view of Lemoine, claims 1 and 17, and the claims dependent thereon, i.e. all of the remaining claims, are allowable over Lemoine.

The Examiner takes the position that claim 5 “does not require the use of different thermoplastic materials for respective particles” (near the top of page 3 of the Office Action). Attorney for applicants respectfully disagrees. Claim 5 requires a polymer of the first plurality of particles forming the jaspe agglomerated particles to have a molecular weight different than the molecular weight of the polymer forming the second plurality of particles which form the jaspe agglomerated particles. Pigments and dyes are not polymers. Therefore, the different pigments or dyes used by Lemoine do not meet the limitation of claim 5.

At column 4, lines 30 to 32, Lemoine states that the chips have the same chemical nature, the only difference being that they have different colors. Therefore, Lemoine teaches that any polymer used in his chips have the same molecular weight and claim 5 is allowable over Lemoine for this reason as well.

Claim 27 is allowable for the same reason as claim 5. Claim 27 requires a polymer of the first plurality of particles forming the jaspe agglomerated particles to have a molecular weight different than the molecular weight of the polymer forming the second plurality of particles which form the jaspe agglomerated particles. Lemoine states that the chips have the same chemical nature, the only difference being that they have different colors.

Claims 8 and 22 have been amended to more clearly require the second plurality of jaspe agglomerated particles to include a fourth particle having a visual characteristic different than the visual characteristic of the first and second particles forming the first plurality of jaspe agglomerated particles. There is no teaching or suggestion in Lemoine of such a structure. While a plurality of the Lemoine agglomerates will have a different visual characteristic, it is not evident from the disclosure of Lemoine that some of each of the four differently colored chips would not be included in each jaspe agglomerate. Therefore, claims 8 and 22 are allowable over Lemoine for this reason as well.

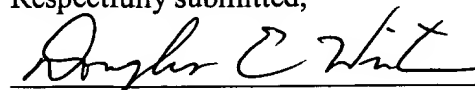
Claim 22 has also been amended to more clearly require the first plurality of agglomerated particles and the second plurality of agglomerated particles be formed before the two pluralities are mixed. There is no teaching or suggestion in Lemoine of such a requirement. Therefore, claim 22 is allowable over Lemoine for this reason as well.

With respect to claims 40 and 42, the labyrinthine interface is inherent only if the surface of the jaspe agglomerated particles is irregular. Amended claims 40 and 42 require all of the interfaces to be labyrinthine. Since the jaspe agglomerates of Lemoine have planar surfaces, all of the interfaces are not labyrinthine and claims 40 and 42 are allowable over Lemoine for this reason as well.

Attorney for Applicants maintains that the claims are in condition for allowance. Therefore, timely issuance of a Notice of Allowance is respectfully requested.

12/7/04
Date

Respectfully submitted,



Douglas E. Winters
Reg. No. 29,990
Attorney for Applicants

Appln. No. 09/977,170
Amdmt & Resp dated, Dec. 7, 2004
Response to Office Action. of Sept. 8, 2004

Armstrong World Industries, Inc.
P.O. Box 3001
Lancaster, PA 17604
(717) 396-4070 (Telephone)
(717) 396-6121 (Facsimile)

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22231-1450 on: 12/7/04.

April L. Fiedler